

## **REMARKS**

The Office Action dated July 27, 2009 has been reviewed and the comments of the U.S. Patent and Trademark Office have been considered. The following remarks are respectfully submitted to place the application in condition for allowance.

### **1. EXAMINER INTERVIEW SUMMARY**

Applicants submit this statement of the substance of the telephone interview held November 17, 2009, with Examiner Mark Fadok and Applicants' representatives Christopher Adams and Matthew Laskoski. Applicants' representatives requested the interview to discuss the Office Action issued July, 27 2009, in the present application. Applicants thank Examiner Fadok for the substantive discussion of the Office Action and claims of the application.

Applicants' representatives discussed the Office's assertion that "...the provisional application does not provide support for bidding in 'spot markets'..." For purposes of expediting prosecution, Applicants will treat "bidding in 'spot markets'" as present only in the specification of this application.

Applicants' representatives addressed the claim rejections under 35 USC § 103 and the Office's assertions that the disclosure of the Johnson and Telezoo references render Claim 1 obvious. Applicants' representatives and Examiner Fadok discussed the differences between Claim 1 of this application and the disclosure of the Johnson and Telezoo references.

In particular, Claim 1 of this application is directed towards a system that stores information about sellers in memory and generates responses to requests from a buyer of telecommunication services based on the information stored in memory without any intervention from the seller, which is not taught by Telezoo. Examiner Fadok did not interpret the responses

in Claim 1 to be generated by the system. Applicants' representatives directed Examiner Fadok to Page 19, lines 9 – 20 of the specification for this application and agreed to consider amending Claim 1 to clarify this limitation.

Applicants' representatives further contended that the disclosure of the Telezoo reference fails to teach an indication associated with the seller controlled geographic footprint wherein the telecommunications service is available, and directed Examiner Fadok's attention to Page 17, lines 18-23 of the specification for this application. Additionally, Applicants' representatives contended that the disclosure of the Johnson reference also fails to remedy this, as the disclosure of the Johnson reference teaches using different systems to separate different energy product categories and provides the providers an opportunity to filter inquiries addressed to other sellers within the same geography. Examiner Fadok disagreed with the Applicants' representatives position and stated that in the Johnson reference, because the electric companies specify that they are not in a particular area are not included in the RFQ, this suggested that it was under the control of the supplier. Applicants' representatives respectfully disagreed with Examiner Fadok's position.

Finally, Applicants' representatives contended that the disclosures of the Telezoo and Johnson references fail to teach preventing a buyer from accepting an identified response after the session is ended and directed Examiner Fadok's attention to Page 18, lines 18-23, Page 3, lines 1 -11 and Page 19, lines 13 -15 of the specification for this application. Further, Applicants' representatives also respectfully disagreed with Examiner's Fadok's interpretation of a session as it pertains to this application. Examiner Fadok indicated that the disclosure of the Johnson reference did not appear to teach that the offer is only good during the session and the

once the session was terminated then the offer was not valid. Examiner Fadok also provided additional comments regarding the term response claimed in the present application, and agreed to discuss the matter further after an amendment had been filed by the Applicants.

## **2. CLAIM STATUS**

Claims 1-2, 4 – 9, are currently pending in this application, of which claims 1, 8 and 9 are independent claims. Claims 1, 6, 8 and 9 are currently amended. Applicants respectfully submit that no new matter has been added by the amendments. Support for the amended claims may be found at, for example specification at page 18, lines 16 – 22, and page 19 lines 7 – 13.

## **3. PRIORITY**

For purpose of expediting prosecution, Applicants will treat “bidding on ‘spot markets’” as present only in the specification of this application.

## **4. CLAIM REJECTIONS - 35 USC § 103**

(i) Claims 1, 2, 4, and 6 - 8 are allegedly rejected under 35 U.S.C. §103(a) as being unpatentable over Telezoo in view of Johnson et al. US Patent No.6,047,274 (“Johnson”).

The arguments from the Applicants’ previous responses to Office Actions are incorporated within.

Applicants’ note that the Telezoo reference cited in the July 27, 2009 Office Action appears to be the reference listed in the PTO 892 form attached to the April 4, 2008 Office Action as opposed to the reference listed in the PTO 892 form attached to the July 27, 2009 Office Action.

Applicants’ believe the Office Action should refer to the Telezoo reference listed in PTO 892 form attached to the July 27, 2009. Appropriate clarification is requested.

Applicants contend that Telezoo, the primary reference cited by the Office fails to teach all of the limitations claimed by the amended Claim 1 of this application. For example, contrary to the Office's assertions that Telezoo teaches "the information being used to determine one or more responses to a request to purchase at least one telecommunication service," (Office Action at Page 4), in fact, Telezoo teaches a system for "offer[ing] the serious telecommunication buyer the power to find the products they need and to compare products side-by-side to make an informed decision." (Telezoo at Page 2, Paragraph 3). Further, Telezoo discloses that

**"[m]ajor corporations, small companies, ISPs, local and federal government organizations and dozens of others have filed to receive bids on a diverse set of requests. Vendors and service providers who have signed up for telezoo.com services and are pre-qualified to respond then receive automated e-mail notification from the telezoo.com RFP site... Any organization may input RFPs onto the site for telezoo.com service providers and vendors."** (Telezoo at Page 2, Paragraph 4 emphasis added).

Thus, Telezoo teaches a system in which a seller responds to a buyer's request for telecommunication services after receiving a notification. And therefore Telezoo requires intervention from the seller to generate a response to the buyer's request, whereas the present application claims that the system generates a response to the buyer's request without intervention from the seller as recited by the following limitation of amended Claim 1, "the information being used to determine one or more system generated\_responses to a request to purchase at least one telecommunication service."

Additionally, because Telezoo fails to teach, suggest or disclose that the responses to the buyer's request are generated by the system, as discussed above, Telezoo also fails to teach, suggest or disclose the following limitations recited by the amended Claim 1 of this application,

“a related cost for the telecommunication service offering, and an indication associated with the seller controlled geographic footprint wherein the telecommunication service is available, each system generated response being determined based at least upon the indication associated with the seller controlled geographical footprint.” Further, the Office also asserts that Telezoo “does not specifically mention an indication associated with the seller controlled geographic footprint wherein the telecommunication service is available determining the at least one response to the received request based at least upon the indication associated with the seller controlled geographical footprint.” (Office Action at Page 4).

However, the disclosure of Johnson, the secondary reference cited by the Office to cure the deficiencies in the Telezoo reference, also fails to teach suggest or disclose a “seller controlled geographic footprint.” Contrary to the Office’s assertion that Johnson “teaches that providers may limit the bids that are provided to them based on geographic region,” (Office Action at Page 4), in fact, the disclosure of Johnson teaches

“an auction service... [in which] **[t]he bidding process to supply electric power will be conducted separate and apart from the bidding process to supply natural gas.** Power generators will compete only with other power generators. Gas producers will compete only with other gas producers... **Through this auction, Providers will be apprised of the bids of competing Providers and have an opportunity to modify their bids accordingly...** From the list of all Providers providing bid information to the Moderator, each control computer (or the Moderator) can select those Providers from whom participating end users will be provided electric power or natural gas and can change that selection at any time... After each new bid is submitted by a Provider and is processed by the Moderator, the rate and/or provider selection data will be transmitted to the relevant control computers (or retained by the Moderator if the Moderator will perform the functions of the control computer, including selecting a Provider for each set of end users) and rate

information will be distributed to some or all of the Providers in order to implement the auction. **A Provider, for example, may not be interested in receiving the bids of other Providers who are not active in the same geographic regions. All Providers will have the opportunity thereafter to submit a lower or higher bid for any end user or group of end users to whom they wish to supply electric power or natural gas.**" (Johnson Col. 7, ll. 2 – 15, Col. 6, ll. 1- 12 emphasis added).

Thus, Johnson teaches an auction system which requires the providers to respond to a request from a buyer as suggested by "...[p]roviders will be apprised[SIC] of the bids of competing Providers and have an opportunity to modify their bids accordingly..." (Johnson Col 6, ll. 17 - 19) and a system that gives providers (a/k/a sellers) an opportunity to filter out inquiries from other providers who are not active within the same geographic area, however all provides can thereafter bid on the for any end user or groups of end users to whom they wish to supply electric power or naturally gas. However, as discussed above, this application claims that a system generates responses to the requests from the buyer as recited in amended Claim 1. Additionally, this application does not claim that sellers can filter out inquiries addressed to sellers not active in the same geographic area, rather this application claims a system generated responses to requests from buyers will be associated with the regions where the sellers offers the telecommunication service as recited by the following limitation of amended Claim 1, "each of the one or more system generated responses being associated with at least one of the plurality of telecommunication service providers and each of the one or more system generated responses being further associated with a related cost for the at least one telecommunication service and an indication associated with the seller controlled geographic footprint wherein the telecommunication service is available."

Additionally, the disclosure of Johnson also teaches that

“...[p]ower generators will include companies that own actual generating facilities as well as those firms that purchase generating capacity from others and market that available power directly to end users. Under most of the various legislative approaches, an end user will be given the opportunity to purchase its electric power from any legitimate power generating company willing to supply electric power to that end user's geographic region.”  
(Johnson Col. 1, ll. 34 -41).

Thus, Johnson's teaches that end user may be provided with an opportunity to purchase power from any legitimate power generating company willing to supply electric power to that end user's geographic region. However, this teaching does not appear related to computer systems, such as an online auction or bidding systems or associated with the system generated responses from such systems and thus cannot teach the limitations recited above. Therefore, contrary to the Office's assertion that “it would have been obvious to include in Telezoo an indication associated with the seller controlled geographic footprint...” (Office Action at Pages 4), Applicants contend that it would not have been obvious for one skilled in the art to combine the Johnson and Telezoo references as the Johnson reference teaches separate bidding systems for different types of energy providers, whereas the Telezoo system teaches a unified system for purchasing and comparing telecommunication services and vendors.

The present application claims that the offer, which is a system generated response to a request from a buyer from telecommunication services, remain valid only during a network session as recited by the following limitations of amended Claim 1, “establishing a session over a network for considering the purchase of the at least one telecommunication service,” “receiving the request at a computer on the network, wherein the request is received after the information associated with one or more of a plurality of telecommunication service providers is stored,” “determining the at least one system generated response in response to the received request based

at least upon the indication associated with the seller controlled geographical footprint,” and “preventing a requester from accepting the identified system generated response to the received request after the session is terminated.”

Contrary to the Office’s assertion that Telezoo teaches, “establishing a session by a connection made through the internet and receiving a request for the purchase of at least one telecommunication service after the information association within one or more of a plurality of telecommunication service providers is stored (one to one comparisons)...” (Office Action at Page 5), the Applicants contend that Telezoo fails to explicitly teach establishing a session over a network. In fact, Telezoo teaches “an e-Commerce site that delivers requests for proposals (RFPs) from telecommunications and IT buyers to vendors and service providers.” (Telezoo at Page 1, ¶ 1). The e-Commerce site disclosed by Telezoo fails to explicitly teach that all transactions occur within in a network session, as claimed by the present application in limitations from amended Claim 1 recited above.

Further, the Office also asserts that Johnson teaches “preventing a requester from accepting the identified response after the session is terminated...” (Office Action at Page 5). Contrary to the Office’s assertions, Johnson teaches providing a “fail-safe mechanism, to avoid use of old bids that have not been changed due to communication failure . . . at the expiration of the time limit, the expired bid could default to a preset default bid or to no bid” (Johnson at Col. 12, ll. 47 – 52). The bids to which Johnson refers are bids to the suppliers and the fail-safe mechanism that prevents the suppliers from accepting bids after a certain time. The only reference to termination of a session is that the auction completes after a set time. Whereas, the present application claims the system generated response to remain valid only during the



network session as recited by the limitations of amended Claim 1 above. Therefore, Johnson also fails to teach all of the limitations of amended Claim 1.

From the above arguments, the Telezoo and Johnson references individually and in combination fail to teach all of the limitations from amended Claim 1 of the present application.

For at least the foregoing reasons, Applicants respectfully assert that independent claims 1 and 8 are patentable over Telezoo in view of Johnson. Dependent claims 2, 4 and 6 - 7 depend from independent claim 1 and add further patentable features to the patentable features of the independent claim.

Therefore, claims 1, 2, 4, 6 and 8 are patentable over Telezoo in view of Johnson. Withdrawal of the rejection and allowance of all claims are requested.

(ii) Claims 5 and 9 are allegedly rejected under 35 U.S.C. §103(a) as being unpatentable over Telezoo in view of Johnson and further in view of Shoam et al., U.S. Patent No. 6,584,451 ("Shoham").

With regards to Claim 5, dependent claim 5 depends from independent claim 1 and adds further patentable features to the patentable features of the independent claim.

With regards to Claim 9, as discussed above, the Telezoo and Johnson references individually and in combination fail to teach all of the limitations of the amended Claim 9 of the present application. Additionally, the Shoam reference cited as an additional secondary reference by the Office also fails to cure the deficiencies of the Telezoo and Johnson references.

Therefore, claims 5 and 9 are patentable over Telezoo in view of Johnson and further in view of Shoam. Withdrawal of the rejection and allowance of all claims are requested.

5. **CONCLUSION**

In view of the above amendment, Applicants believe the pending application is in condition for allowance. Applicants respectfully submit that if a discussion of the application would speed the prosecution of the application, the Examiner is invited to contact the Applicants' representative at the address and phone number listed below.

Applicants submit concurrently a request for a three-month extension of time under 37 C.F.R. § 1.136 and the accompanying fee. Please charge our Credit Card in the amount of \$555.00 covering the fees set forth in 37 C.F.R. § 1.17(a)(3). In the event that any additional extensions of time are necessary to prevent the abandonment of this patent application, then such extensions of time are petitioned. The U.S. Patent and Trademark Office is authorized to charge any additional fees that may be required in conjunction with this submission to Deposit Account No. 50-2228, under Order No. 026624.0104PTUS from which the undersigned is authorized to draw.

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Respectfully submitted,

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